

**MINUTES OF THE
LAKE COUNTY PLANNING COMMISSION
July 23, 2009**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Siegel called the meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Brotzman, Schaedlich, Siegel, Terriaco (alt. for Morse), Zondag and Mmes. Hausch and Pesec. Staff present: Messrs. Boyd, Radachy, and Ms. Truesdell.

MINUTES

On page 9, Staff Recommendation 4 should read "plan" instead of "plat". On Page 18, #15, remove "in".

Mr. Adams moved and Mr. Brotzman seconded the motion to approve the June 30, 2009 minutes.

Six voted "Aye".
Two abstained.

FINANCIAL REPORT

Mr. Boyd said, at the half-year mark, we are at our budgeted amount. The revenue indicates that Contract Services exceeded the expected amount to date. The *Eastlake Comprehensive Plan* was approved by Council on July 14 and we received payment of \$3,000.00 from the Chagrin River Watershed Partners.

Ms. Hausch moved for approval of the June, 2009 Financial Report and Mr. Schaedlich seconded the motion.

All voted "Aye".

PUBLIC COMMENT

There was no comment from the public.

LEGAL REPORT

Mr. Eric Condon, Assistant Prosecutor, said that he has been meeting with Mr. Boyd about employee policies and the employee handbook. He will have an update at a later time.

DIRECTOR'S REPORT

Mr. Boyd said that staff is continuing to work on the Mentor Comprehensive Plan Update. Mr. Radachy has been meeting with Fairport Harbor focusing on multi-family zoning requirements. Staff will be assisting the Port Authority and the Soil and Water Conservation District with two Coastal Management Assistance Grants. Ms. Myers is working with Information Technology Department to update the website.

ANNOUNCEMENTS

There were no announcements.

SUBDIVISION REVIEW

Concord Township – Orchard Springs, Variance to Article 1, Section 4B

Mr. Radachy said the developer is Ralph Victor Construction, Inc. The site is on Colburn Road with 23 sublots on 15 acres. The final plat was approved in March, 2009. The County Engineer, Soil and Water Conservation District, and Concord Fire Department already approved the improvement plans. Concord Trustees, Painesville Water Department and the Planning Commission will sign off before it goes to the Commissioners to be accepted. All indications show that this will take place in the next two to four weeks. The developer wants permission to grind stumps and rough grade the heavily wooded property. While the requirement of extraordinary or unnecessary hardship is based on physical conditions, the developer is claiming that winter is coming and he would like to put down the road this year. He was given permission to clear the trees on the right-of-way. Staff was concerned that grading of the cul-de-sac would cause the ditches to fill in and effect site drainage. Staff is recommending denial of the variance because there is still two and one-half months between the time the development is approved and winter sets in.

Mr. Boyd said if the applicant has fulfilled the improvement plan requirements, the improvements will be signed, and they could be working on the subdivision in 3 to 4 weeks.

Mr. Zondag said once they work on the ground during the wet weather, they could compact it and accelerate the erosion process.

Mr. Dave Novak, agent for Orchard Springs development, said that although the plans are close to getting approved, they want to get pavement in this year. And

they want to put up their erosion control measures, then start to grade. If they had all the approvals today, they would put in the erosion control measures, remove stumps, do the initial grading and create the pond and the sediment basin in the back. The purpose of the pond is to drain all the overland flow. The construction process will be the same no matter when they start.

Mr. Condon said that the Subdivision Regulations state that it must be extraordinary and unnecessary hardship, not just a hardship. This request does not seem to fit the definition.

Mr. Brotzman asked if this seems early for granting a hardship due to winter issues.

Mr. Radachy said yes, it does. The last time we granted a variance was at the August, 2005 meeting for clearance in September. We are a month and a half ahead of that time. It was a 13 acre site.

Mr. Schaedlich moved and Mr. Adams seconded the motion to approve the Orchard Springs Subdivision Variance request to Article 1, Section 4B in Concord Township.

Mr. Siegel asked for a roll call vote starting with the end of the alphabet.

Zondag	No	Siegel	Yes
Schaedlich	No	Pesec	No
Terriaco	No	Hausch	No
Brotzman	No	Adams	Yes

Motion fails.

Subdivision Activity Report

Mr. Radachy said that the preliminary plans have expired for the Eagles Creek Subdivision in Leroy Township on Girdled Road. That plat has technically retained its approval because the developer does not need an approved preliminary plan to have an approved final plat.

LAND USE AND ZONING REVIEW

Concord Township - Zoning Text Amendment to Section 13.35, Outside Dining

Mr. Radachy said this revised text adds proposed conditions to outside dining to control noise levels. The first case added new conditions to Section 13.35, Outdoor Dining, which would limit excessive noise beyond the premises and allow the Board of Zoning Appeals to restrict the hours of operation of outdoor dining. These conditions were recommendations of the Planning Commission from February, 2009. Concord Township decided to follow the standard text amendment process with the

recommendations instead of modifying the text amendment in February. Staff recommended that the Township accept the text amendment. Land Use and Zoning recommended approval.

Mr. Adams said there are accepted noise levels which can be determined with the use of a decibel meter. He would recommend that they have a way of quantifying this.

Ms. Pesec said that the statement, "including landscape and sound barriers", might read, "including, but not limited to"? The concern is that the restaurant may be next to a residential district.

Mr. Adams moved and Mr. Schaedlich seconded the motion to accept the recommendation of the Land Use and Zoning Committee and to recommend approval of the Zoning Text Amendment to Section 13.35, Outside Dining in Concord Township.

All voted "Aye".

Concord Township Zoning District Amendment from R-4, Residential to R-2 RCD Residential Conservation Development

Mr. Radachy said that Eye Will Development has requested to rezone a 53.58 acre piece of property from R-4, one acre lots to R-2, RCD, ½ acre lots. It is located on land east of Ravenna Road, on the north side of Girdled Road, and is adjacent to Noble Ridge, Woodcrest and Cali Woods Subdivisions. The 47 subplot, R-4 yield plan was submitted as a preliminary plan and approved in 2004. This zoning district change was submitted in 2005. At the time, the RCD plan called for 54 sublots with an average lot size of 0.40 of an acre and there was 50% open space, which allowed them a density bonus of 7 lots. That plan was overturned by the voters. The owners are now proposing a 52 subplot R-2 RCD Plan. The minimum lot size for R-2 RCD is ½ acre and the average lot size for the project is 0.507 of an acre. Sanitary sewer and water is available for the project.

This proposal would develop the property with 52 sublots and 21 acres of open space on about 40% of the site. If the property is developed under conventional zoning, it would be a 47-sublot subdivision without any open space. Airphotos show the property is 95% vacant with a house on it and the adjacent property is single family with vacant lots mixed in. There is a commercial store on the corner of Ravenna Road and Girdled Road and a veterinarian office being built to the west. Woodcrest and Cali Woods both have temporary cul-de-sacs. The 2004 Comprehensive Plan encouraged conservation development in the R-4 district with large tracts of land preserved in open space adjacent to smaller lots. The yield plan has four connections to other developments or roads and the lots meet the one acre minimum lot size in both standard lots and flag lots.

Mr. Radachy said there were 52 sublots on the RCD plan allowing a density bonus of 11% because they preserved 40% open space yielding an additional five sublots. In the previous plan, a variance was granted to Noble Ridge to not connect to Stoneridge Estates and the lawsuits and appeals that followed resulted in Noble Ridge being required to connect to Stoneridge Estates. Now, Stoneridge Estates is proposing not to connect to Noble Ridge. In order for this layout to be approved, a variance will need to be granted by the Planning Commission. This discussion will occur when an application for a preliminary plan is filed.

The homeowners association will maintain the green space. While the average lot size is 0.507 of an acre, the majority of the lots are ½ of an acre. 32 of 52 lots or 61.5% are at ½ of an acre lot size. The average lot size is increased by a lot that is 0.64 of an acre and a few lots that are over 0.55 of an acre.

Mr. Radachy said that the streams on the site appear to be longer than what is shown on the plan. The Lake County Subdivision Regulations will require a wetlands delineation to be preformed and that will include the streams. The Subdivision Regulations also requires the development to be designed with riparian setbacks taken into consideration. This may or may not impact the layout of the site.

There are two gas wells on the property. The separator and holding tanks are going to be moved to the front of the property. Waste from the drilling of the gas wells was buried on the site and those locations will need to be certified by a surveyor. If those locations are in the open space, they should be removed as land used in the calculation of the density bonus because they are no longer in their natural state. Land around the wells should also be removed from the calculation of the density bonus because it may be needed for maintenance in capping the gas well. In those cases, it will not be in its natural state. If these areas are eliminated, it could affect their density bonus because they are at the low end of the scale.

Some subdivision issues will be forwarded to the Concord Township Zoning Commission and include that the block length of the road exceeds maximum block length by 1000 feet and the cul-de-sac right-of-way diameter did not conform to the subdivision regulations because it was too large. The pavement diameter of the cul-de-sac was too small in relationship to the right-of-way diameter.

Staff recommended the district change be made because it is in conformance with the Comprehensive Plan.

The Land Use and Zoning Committee recommended that the oil and gas well separator tanks be removed and the location of the waste pits be surveyed, and that they land be properly landscaped. Also, a wetlands delineation needs to be performed.

They are currently proposing to not connect to Noble Ridge. According to our Subdivision Regulations, Noble Ridge should connect. Land Use and Zoning recommended the district change. Staff is adding additional recommendations.

COMMENTS

1. This rezoning request was submitted in 2005. The Land Use and Zoning Committee and the Planning Commission recommended approval of the district change. Zoning Commission and Trustees approved the zoning district change. The district was overturned by referendum.
2. The yield plan was approved as a preliminary plan in 2004. The approval was made void by the approval of a preliminary plan for the RCD in 2005.
3. Sanitary Sewer will be serviced by gravity to an 8" sanitary sewer line on Joanne Drive.
4. Water service will connect to existing waterlines on Joanne Drive and Keystone Drive.
5. A field check of the area was performed. It appears that the streams are longer than what is shown on the plans. A wetlands delineation should note any wetlands and additional lineal feet of stream.
6. The new stream locations must show the riparian setback areas. This may or may not impact the buildability of various sublots.
7. The design and layout of the road shall conform to the Lake County Subdivision Regulations. Currently the block length between Girdled Road and Keystone Drive exceeds the maximum standard of 1,400 feet by 1,000 feet. The cul-de-sac right-of-way at the end of Legacey Trail exceeds maximum diameter of 130 feet by 10 feet. If the cul-de-sac right-of-way diameter remains at 130 feet, the payment diameter will need to be increased to 120 feet; currently, it is at 100 feet. The Lake County Subdivision Regulations require a road to provide access to Noble Ridge. Currently, there is no connection and one shall be provided.
8. There are two gas/oil wells on the property. One is located between sublots 2 and 3 and another one located between sublots 27 and 28. The separator and the tanks for both wells are to be removed. There will be a new separator and tanks located on Girdled Road that will service both wells. Location of the gas/oil lines from the well heads to the separator and tanks should be given. The lines should be located in order to not affect the building envelopes of the sublots, location of other utilities and roadway and the lines shall not disturb the open space.
9. According to ODNR, when the gas wells were drilled, waste was buried on site. The locations of those pits are not shown on the plan, but ODNR gave a preliminary location of it being in the open space between sublots 2 and 3 and sublots 27 and 28. Actual location shall be located by a surveyor.
10. The land that the pit is located on should be landscaped with vegetation that is compatible with the natural characteristics of the site.

11. Currently, ODNR regulates the placement of gas wells in local communities. Townships can regulate the setback of new structures in relationship to existing wells, but not the placement of the wells. There is legislation pending in the Ohio General Assembly that may or may not return some the local communities control over regulating oil and gas drilling.

12. This would be the third R-2 RCD Development in Concord Township.

Mr. Radachy read the staff's additional recommendations:

1. The district change should be approved. It conforms to the comprehensive plan. The subdivision issues can be corrected later.
2. Location of the gas/oil lines from the well heads to the separator and tanks should be given. The lines should be located in order to not effect the building envelopes of the sublots, location of other utilities and roadway and the lines shall not disturb the open space.
3. Actual location of the waste pits from the gas well drilling should be located by a surveyor.
4. The land that the pit is located on should be landscaped with vegetation that is compatible with the natural characteristics of the site.
5. A wetlands delineation should be performed to note any wetlands and additional lineal feet of stream. The streams should be taken into consideration when determining the locations of the sublots and roads.

Mr. Schaedlich moved to recommend approval of the Zoning District Amendment from R-4, Residential to R-2 RCD Residential Conservation Development based on Land Use and Zoning's recommendation and the comments and recommendations from staff.

Ms. Pesec recommended that the pits be located and tested because the chemicals are proprietary to each drilling company and may pose a risk to future residents.

Mr. Schaedlich commented that we are looking at land use.

Mr. Schaedlich rescinded his motion. Mr. Adams rescinded his second to the motion.

Mr. Schaedlich moved to accept the recommendation of the Land Use and Zoning Committee with the additional recommendations provided by staff and the recommendation to locate and test the brine pit and recommend approval of the Zoning District Amendment from R-4, Residential to R-2 RCD Residential Conservation Development in Concord Township.

All voted "Aye."

Resignation of Land Use and Zoning Member

Mr. Radachy said that Jerry Klco and Laura Diak of Madison, whose terms expired, were asked to continue on the Land Use and Zoning Committee. Mark Welch of Perry Township will continue and Ruth Garland has resigned. Perry Township will recommend an additional member.

REPORTS OF SPECIAL COMMITTEES

There was no report of special committees.

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Discussion ensued concerning the previous variance request. The Board must balance the needs of the developer with the subdivision regulations requiring approval before work can be done. The developer can have the Township waive the seven-day notice which would expedite this.

Mr. Boyd said, after research, he and Mr. Radachy realized that when the developer submits the variance request, he should provide information as to which departments are needed to sign the plat. It is important that work is done in a timely manner according to County departments' requirements.

Mr. Adams asked that staff research with other County departments how the Subdivision Regulations could be changed to accommodate the developer's variance request while fulfilling all the requirements of the plat. He wants a procedure that protects the Planning Commission as well as the property in provisional steps.

Mr. Boyd said that if subdivision regulation requirements, such as block length, get frequent variance requests, then we need to look at this.

Lot Split "Plat" Fees

Mr. Boyd said that a few years ago, staff instituted a lot split process within a plat and gave it the standard lot split fee of \$100.00. However, doing a lot split plat requires mailings, secretarial time, and staff time. For consideration, he presented a proposed fee schedule which would cover our cost. Staff will review the entire fee schedule and present it to the board at a later date.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Ms. Hausch moved and Mr. Schaedlich seconded the motion to adjourn the meeting.

All voted "Aye."

The meeting adjourned at 8:15 pm.